Effective on 12/08/2004.  
Pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**FEE TRANSMITTAL**  
**For FY 2005**☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 1,370.00**Complete if Known**

Application Number	10/669,824
Filing Date	September 23, 2003
First Named Inventor	Jiang
Examiner Name	David Kruse
Art Unit	1638
Attorney Docket No.	MBI-0034CIP

**METHOD OF PAYMENT** (check all that apply)

- ☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_
- ☒ Deposit Account Deposit Account Number: 50-1025 Deposit Account Name: Mendel Biotechnology, Inc
- For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)
- ☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
- ☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
<b>Total Claims</b>		
Extra Claims	Fee (\$)	Fee Paid (\$)
- 20 or HP = _____ x _____ = _____		
HP = highest number of total claims paid for, if greater than 20.		
<b>Indep. Claims</b>		
Extra Claims	Fee (\$)	Fee Paid (\$)
- 3 or HP = _____ x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3.		

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 = _____	/ 50 = _____	(round up to a whole number) x _____	= _____	

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)	Fees Paid (\$)
	0.00
Other (e.g., late filing surcharge): 1454 Petition for Unintentionally Delayed Claim for Priority	1,370.00

**SUBMITTED BY**

Signature	<u>Suzanne Mack</u>	Registration No. (Attorney/Agent) 44,888	Telephone 510-259-6115
Name (Print/Type)	Suzanne Mack		Date May 31, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill NoEV059357340US, in an envelope addressed to: MS Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: May 31, 2006

Signature: Suzanne Mack

(Suzanne Mack)

Docket No.: MBI-0034CIP  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Cai-Zhong Jiang, et al.

Application No.: 10/669,824

Filed: September 23, 2003

Art Unit: 1638

For: Methods For Modifying Plant Biomass and  
Abiotic Stress

Examiner: David Kruse

**PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR BENEFIT  
UNDER 37 C.F.R. § 1.78(a)(3) AND C.F.R. § 1.78(a)(6)**

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Madam or Sir:

Applicants respectfully request the acceptance of the unintentionally delayed claim of benefit set forth in the Supplemental Application Data Sheet, included herewith.

In accordance with 37 C.F.R. 1.78(a)(3) and 1.78(a)(6), this petition to accept an unintentional delayed claim for benefit is being filed with the following:

A) the reference required by 35 U.S.C. §§ 120, 119(e) and 37 CFR 1.78(a)(2), 1.78(a)(5), which is set forth in the Supplemental Application Data Sheet and the amendment to the Specification, filed herewith;

B) a surcharge under 37 C.F.R. 1.17(t), which is set forth in the attached fee transmittal form; and

C) a statement that the entire delay between the date the claim was due under 37 C.F.R. 1.78(a)(2) or 1.78(a)(5) and the date the claim was filed was unintentional, which is set forth below

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**Statement of Facts**

1. Applicants filed the instant application on September 23, 2003 with a Specification containing the following first paragraph:

This application claims the benefit of copending US Non-provisional Application No. 10/374,780, filed February 25, 2003; which claims the benefit of US Provisional Application No. 60/336,049, filed November 19, 2001, US Non-provisional Application No. 09/934,455, filed August 22, 2001, which in turn claims priority from US Provisional Application No. 60/227,439, filed August 22, 2000, and US Provisional Application No. 60/310,847, filed August 9, 2001; US Non-provisional Application No. 10/412,699, filed April 10, 2003; which claims the benefit of US Non-provisional Application No. 09/506,720, filed February 17, 2000, which in turn claims the benefit of US Provisional Application No. 60/135,134, filed May 20, 1999, US Non-provisional Application No. 09/533,392, filed March 22, 2000, US Non-provisional Application No. 09/533,029, filed March 22, 2000, US Non-provisional Application No. 09/532,591, filed March 22, 2000, which in turn claimed the benefit of US Provisional Application No. 60/125,814, filed March 23, 1999, US Non-provisional Application No. 09/533,030, filed March 22, 2000, US Non-provisional Application No. 09/713,994, filed November 16, 2000, US Non-provisional Application No. 09/996,140, filed November 26, 2001, US Non-provisional Application No. 09/823,676, filed April 2, 2001; US Non-provisional Application No. 10/421,138, filed April 23, 2003; US Non-provisional Application No. 10/225,068, filed August 9, 2002, copending US Non-provisional Application No. 10/225,066, filed August 9, 2002, copending US Non-provisional Application No. 10/225,067, filed August 9, 2002, filed August 9, 2002, which claim the benefit of US Provisional Application No. 60/338,692, filed December 11, 2001. The entire contents of these applications are hereby incorporated by reference.

2. The Transmittal Letter of September 23, 2003 accompanying the instant application indicated in item 18 that the instant application is a continuation-in-part and referenced an addendum that contained a list of 21 prior applications. This list of prior applications was identical to those presented in the first paragraph of the Specification as filed.

3. The Application Data Sheet of September 23, 2003 accompanying the instant application identified 21 prior applications under the heading titled "Continuity Information." These applications are identical to those presented in the first paragraph on the Specification as filed.
4. Neither the list contained in the Addendum to the Transmittal, the Application Data Sheet, nor the Specification provide the specific relationships between the instant application and prior applications.
5. The direct claim to priority for Application Nos. 09/506,720 and 09/533,392 did not comply with the requirements of 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) in that they were not copending on the date the instant application was filed. However, divisional applications for both of the above applications were copending at the time the instant application was filed, and each divisional application contained a proper claim of benefit to the corresponding parent application. More specifically, Application No. 10/302,267, filed November 22, 2002 contained a proper claim of benefit to parent application 09/506,720; and, Application No. 10/278,173, filed October 21, 2002, claimed a proper claim of benefit to parent Application No. 09/533,392. The instant application now claims the benefit of all of the above-listed applications as priority applications.
6. The direct claims of benefit made to prior provisional Application Nos. 60/310,847, filed August 9, 2001, and 60/336,049, filed November 19, 2001, in the instant application, did not comply with 35 U.S.C. § 119(e) in that the direct claim of benefit was made later than 12 months after the filing date of the prior provisional applications. Claims of benefit to provisional Application Nos. 60/310,847 and 60/336,049 were, however, properly made in Application Nos. 10/225,066, 10/225,067, and 10/225,068, all of which the instant application claims the benefit of as priority applications.
7. The priority claims made to prior Application Nos. 09/934,455, 09/533,029, 09/713,994, 09/823,676, 10/374,780, 10/412,699, 10/225,066, 10/225,067, and 10/225,068 in the Specification and/or the Transmittal Letter/Addendum did not comply with 35 U.S.C. § 120

and 37 CFR 1.78(a)(2)(i) in that they did not state the specific relationship of the applications.

8. The priority claims made to multiple prior applications in a chain of prior applications, both provisional and nonprovisional, in the Specification and/or the Transmittal Letter are not in accordance with MPEP 201.11(C) in that the appropriate specific references were not made for the entire chain of prior applications.
9. To date, the instant application has not been substantively examined by the USPTO.

**Remarks to the Petition**

Applicants believe this Petition to Accept an Unintentionally Delayed Claim for Benefit under 35 U.S.C. § 120 and 35 U.S.C. § 119(e) satisfies the requirements of 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), respectively. Applicants hereby petition to accept the unintentionally delayed claims for benefit, as detailed in the Supplemental Application Data Sheet, submitted herewith.

The instant application was filed after November 29, 2000. The period specified in 37 CFR 1.78(a)(2)(ii) or 37 CFR 1.78(a)(5)(ii) has expired for each unintentionally delayed claim for benefit sought, as follows:

1. 60/125,814, filed March 23, 1999: period expired January 23, 2004
2. 60/135,134, filed May 20, 1999: period expired January 23, 2004
3. 60/227,439, filed August 22, 2000: period expired January 23, 2004
4. 60/310,847, filed August 9, 2001: period expired January 23, 2004
5. 60/336,049, filed November 19, 2001: period expired January 23, 2004
6. 60/338,692, filed December 11, 2001: period expired January 23, 2004
7. 60/434,166, filed December 17, 2002: period expired April 17, 2004
8. 09/506,720, filed February 17, 2000: period expired January 23, 2004
9. 09/533,029, filed March 22, 2000: period expired January 23, 2004
10. 09/533,392, filed March 22, 2000: period expired January 23, 2004
11. 09/713,994, filed November 16, 2000: period expired January 23, 2004
12. 09/823,676, filed March 30, 2001: period expired January 23, 2004
13. 09/837,944, filed April 18, 2001: period expired January 23, 2004
14. 09/934,455, filed August 22, 2001: period expired January 23, 2004
15. 10/171,468, filed June 14, 2002: period expired January 23, 2004
16. 10/225,068, filed August 9, 2002: period expired January 23, 2004
17. 10/225,066, filed August 9, 2002: period expired January 23, 2004
18. 10/225,067, filed August 9, 2002: period expired January 23, 2004
19. 10/278,173, filed October 21, 2002: period expired February 21, 2004

20. 10/302,267, filed November 22, 2002: period expired March 22, 2004
21. 10/374,780, filed February 25, 2003: period expired June 25, 2004
22. 10/412,699, filed April 10, 2003: period expired August 10, 2004
23. 10/666,642, filed September 18, 2003: period expired January 18, 2005

Therefore, the instant petition is made after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) or 37 CFR 1.78(a)(5)(ii), with respect to the delayed benefit claims.

The instant petition is accompanied by a Supplemental Application Data Sheet setting forth the reference required by 35 U.S.C. §§ 119(e) or 120 and 37 CFR 1.78(a)(2)(i) or 1.78(a)(5)(i). The instant petition is also accompanied by an Amendment under 37 CFR 1.121 setting forth the reference required by 35 U.S.C. §§ 119(e) or 120 and 37 CFR 1.78(a)(2)(i) or 1.78(a)(5)(i). A Request for Corrected Filing Receipt is also submitted, herewith.

The instant petition is accompanied by the surcharge of \$1,370.00, set forth in 37 CFR 1.17(t).

In accordance with 37 CFR 1.78(a)(6), the instant petition is being filed during the pendency of the instant application.

The instant petition contains, below, a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) or 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional.

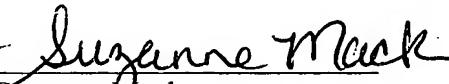
Therefore, Applicants respectfully request that this Petition to Accept an Unintentionally Delayed Claim for Benefit, made under 37 CFR 1.78(a)(3) and 1.78(a)(6), be accepted and that the list of domestic priority data for the instant application be changed to reflect the priority information provided in the Supplemental Application Data Sheet, submitted herewith.

The undersigned hereby states that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or 37 CFR 1.78(a)(5) and the date the claim was filed was unintentional.

In the unlikely event that the transmittal letter is separated from this document and/or the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 50-1025** referencing docket no. **MBI-0034CIP**.

Dated: May 31, 2006

Respectfully submitted,

By   
Suzanne Mack

Registration No.: 44,888

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